

TWENTY-FOURTH ANNUAL REPORT

BOARD OF FORESTRY MEMBERS

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BOARD'S MANDATE

The Board of Forestry is a nine-member board appointed by the Governor to guide policy and to oversee the administration of the Forest Practice Act, the State Forest System, and other activities of the California Department of Forestry and Fire Protection. By law, the Board must determine, establish, and maintain an adequate forest policy for the State.

1997 REPORT

Section 4145 of the Public Resources Code requires the Board to report on its activities under the Forest Practice Act for the preceding year. The report is to include a statement of actions, including those by the Legislature, needed to more fully carry out the intent of the Act. This report covers the Fiscal Year 1996-97.

PREFACE

The 1996-97 Fiscal Year has been full of change.

Perhaps the most significant change has been the continued emergence of the federal government influence over the harvesting of timber on private ownerships. This comes partly from the continued developments in wildlife and fish species, such as the declaration of coho salmon and steelhead as threatened or endangered under the Federal Endangered Species Act (FESA). It also comes from litigation that speeds up the development of total maximum daily load requirements for the North Coast of California under the watchdog hand of the federal Environmental Protection Agency (EPA). The effects of such developments are still unclear, so the Board has made very limited recommendations to the Legislature in this Annual Report. The Board does believe that the impact will be to both increase the cost and uncertainty of investments in long term forestry within the state. The Board is waiting for the nature of impacts to become more evident before offering suggestions to the Legislature.

Staff changes have also taken place. After 11 years as Deputy Director for Resource Management, the unit in California Department of Forestry and Fire Protection (CDF) responsible for implementation of the Forest Practice Rules, Ken Delfino has retired. He has been replaced by Craig Anthony. In addition, after 20 years as Executive Officer of the Board, Dean Cromwell has retired. Christopher P. Rowney is Acting Executive Officer and the Board plans to fill the position permanently by February 1, 1998. As of July 30, 1997, the Office of the State Fire Marshal has been fully integrated within CDF. State Fire Marshal Ronny Coleman is the Chief Deputy Director of the Department.

I. LEGISLATIVE RECOMMENDATIONS

A. Maintain budget support for implementation of the Fire Plan:

The Department of Forestry and Fire Protection is beginning the second year of implementation of the California Fire Plan. Based on experience to date, the Board believes that the effort is producing information and public dialogue that will enable much better public understanding of the risk of wildfire and to the development of projects to reduce the risk. Hence the Board recommends that the Legislature continue to fund the implementation of the Fire Plan.

B. Maintain budget support for State agencies and landowners to meet challenges arising from listing of steelhead and coho salmon as threatened or endangered under the Federal Endangered Species Act.

I. KEY ISSUES

A. Continued Progress on the Fire Plan

The key document for the state's fire protection effort is the California Fire Plan. By law and Board policy, the Plan must provide for adequate statewide fire protection on State Responsibility Areas (SRA), must describe the organization and placement of fire protection resources, and must relate the level of funds budgeted for fire protection to objectives and performance measures outlined in the Plan.

The California Fire Plan is designed to reduce total government costs and citizen losses from wildland fire. It does this by focusing on prefire management prescriptions to increase initial attack success and to better protect assets at risk. The Plan process determines high value and high risk areas for wildfire and involves local community groups in validating these determinations and finding solutions.

The analysis also facilitates efforts by communities to find funding sources to carry out prefire programs. Examples of prefire activities have proved very cost effective.

The Fire Plan Process is entering its second year and will be extended to an additional 20 counties beyond the 29 counties now involved at an approximate cost of \$1.6 million. The Board has reviewed the progress to date and believes more than ever that the project needs to be expeditiously implemented.

B. Funding of the Fire Protection System

The Supplemental Report of the 1996 Budget Act required the Board to review the adequacy of existing staffing levels and related policies on CDF's fire engines and report its findings to the Joint Legislative Budget Committee and the chairs of the budget committees of both houses of the Legislature. The Board completed its study and provided the Legislature with its report in January 1997. The Board found no studies to demonstrate the relative safety of different crew sizes in initial attack for wildland fire response. In addition, there was no empirical evidence that current staffing practices or patterns of response presented a safety hazard.

However, the Board did note that CDF was in the process of reviewing and updating Blue Book staffing standards and allocation patterns. Existing standards were last updated in 1985. Subsequently, CDF reported to the Board that, for a variety of reasons, it was not funded in its base budget sufficient to meet several basic standards. Additional funding was provided to CDF for the 1997 fire season to meet the standards, but at the date of the Annual Report writing, a permanent correction to CDF's budget has not taken place. The Board believes that this needs to be done to provide needed resources to assure CDF's success in its fire fighting efforts.

C. Conservation Camp Program

The Conservation Camp Program Fire Crews, also known as hand crews, provide the muscle that enables CDF to achieve the Department's mission. A primary objective within that mission is to "reduce life, property, and natural resource losses through the implementation of balanced fire prevention, fire protection planning, presuppression, and suppression activities." Fire crews make up the platoons of foot soldiers on the "front line" day and night when California experiences one of its many natural or human caused disasters, or one of its burgeoning number of minor emergencies that occur on a daily basis. The crews are completely mobile throughout the state and are strategically located in areas that are most likely to need their assistance.

The Board of Forestry supports the Conservation Camp Program of the Department of Forestry and Fire Protection. The Board recognizes the value of fire crews both for emergency and non-emergency work.

The Board supports growth of the Conservation Camp Program to support future California Fire Plan projects.

**D. Interim Joint Policy Between the Board and the Air Resources Board
Consideration of Air Quality with the Use of Prescribed Fire**

Two recent major policy developments involving smoke management issues have focused the attention of prescribed fire users. The Final Report of the Federal Wildland Fire Management Policy and Program Review calls for increased use of wildland fire, but recent proposals by EPA may result in restricted fire use for the sake of air quality. Clearly, if fire is to remain a viable land management tool, it will depend on the best experience, science, tools, research, training, communication, and system support in smoke management.

In California, fuel loads are very high. Large, high intensity wildfires can do great damage to natural resources including air quality. Prefire Management activities (systematic application of risk assessment, fire safety, fire prevention and fire hazard reduction techniques) such as vegetation management activities, including both prescribed burning and mechanical approaches, are designed to reduce high fuel loads and, in other ways, reduce the risk to other natural resources.

The Board of Forestry has adopted the California Fire Plan. This Plan has as one of its strategic objectives, the reduction of risks of wildland fire to citizens and firefighters. The Plan identifies values (assets) to be protected, including air quality, from unacceptable risk of wildland fire damage. The Plan outlines a Prefire Management Program that will include a range of fire risk lessening projects, including a combination of fuels reductions, ignition management, fire-safe engineering activities, and improvement of forest health.

Attainment of state and national air quality standards are necessary in California, as is the reduction of fuel loads (amount of fuel present expressed quantitatively in terms of weight of fuel per unit area) that support large wildfires which destroy life, property, and natural resources. It is in the best interest of the citizens of California to develop programs that reduce both air pollution and forest fuels.

The interim joint policy supports the above and sets forth policy to CDF and guidelines for consideration by local air pollution control districts for consideration of air quality with the use of prefire management activities.

E. Listing of Coho and Steelhead by the National Marine Fisheries Service

The National Marine Fisheries Service (NMFS) has listed coho salmon as a threatened species throughout its range in California. In response, CDF has issued a guidance document that reflects the latest information which it has been able to obtain on factors to consider when preparing Timber Harvesting

Plans (THPs) on streams with coho or coho habitat. Under existing rules, foresters are required to submit THPs with mitigations that provide protection necessary for coho, including such things as increased canopy cover for shade and equipment exclusions or limitations along streams to limit soil disturbance. This is consistent with the intent of Board rules that THPs incorporate mitigations necessary to protect listed species.

CDF has also been sending copies of all THPs with existing or potential coho habitat to NMFS for comment. To date, NMFS has commented on very few of the plans. However, the State Department of Fish and Game (DFG) has added staff resources and is reviewing THPs with coho implications. DFG suggestions are part of the THP record and are evaluated by foresters preparing THPs and by CDF; CDF is approving plans that it believes protect coho and are otherwise consistent with Board rules.

NMFS has also declared steelhead to be endangered or threatened within some of its range in California. The agency has delayed listing in other areas. The impact of steelhead listings are still being determined.

In its listing documents, NMFS comments that Board rules as implemented may not be adequate to protect coho and steelhead from the impacts of timber harvesting. NMFS has not provided any specific evidence to support this position. The Board does not agree with the opinion of NMFS and is relying on CDF implementation of current rules to provide necessary protection to coho and steelhead.

F. Development of Total Maximum Daily Loads on North Coast Rivers

Under the Federal Clean Water Act, states are responsible for listing streams whose waters are impaired or threatened and to set both priorities and total maximum daily load (TMDL) levels. A TMDL is a quantitative, written assessment of water quality problems, contributing sources, and actions needed to restore and protect water body uses. Many land uses may contribute to pollution, including agriculture, ranching, subdivision, and timber harvesting.

There is active litigation in about 20 states challenging the adequacy of state efforts in various ways to respond to TMDL development requirements. Such litigation against the federal Environmental Protection Agency was recently settled in California. Under terms of the settlement, EPA will assure that TMDLs are established for the 18 waterbodies covered by the lawsuit by the end of 2007. The pace of TMDL development is one watershed in 1997 and then two per year until 2007. EPA and the North Coast Regional Water Quality Control Board (the Regional Board with jurisdiction) share the development by specified watershed. If the State fails to meet the schedule, then EPA will establish TMDLs.

In most of the watersheds, timber harvesting is listed as a contributing source, mostly as a contributor to sediment. Hence, the development of TMDLs in each watershed will involve a written assessment of the relative contribution of timber harvesting and other land use activities to sediment or other specific impacts listed by EPA such as water temperature. The TMDL will also include a numeric target to achieve reduction of pollution and a measure and associated actions by which the desired target must be achieved when timber harvesting and pursuing other land uses.

As of June 1997, EPA has approved 10 TMDLs in California with 10 more nearly completed. None of these, however, involve timber harvesting activities. The Garcia River TMDL, which is to be finished by the end of 1997, is the first watershed pilot involving forestland. The watershed is primarily privately-owned forestland and is a good test case to observe the interactions of the TMDL process with the application of current Forest Practice Rules. EPA has also been involved with state agencies and several larger forest landowners in coordinating the development of Sustained Yield Plans, Habitat Conservation Plans, and TMDLs. None of these are complete at this time.

The Federal Environmental Protection Agency has been critical of several aspects of the state's Forest Practice Rules and has expressed these to the Board of Forestry. The Board's Forest Practice Committee has evaluated these areas and they are under review by the Board. There is a clear overlap between the development of TMDLs on forested North Coast watersheds and resolving differences with EPA about adequacy of the Forest Practice Rules. This is a top priority for the Board in 1998.

G. Continued Development of Monitoring Programs

The Board and CDF continue with the testing of the monitoring program described in earlier reports. This program focuses on hillslope operations and tests the adequacy of the rules and their implementation. During 1996, data was collected on 50 timber harvest plans randomly selected from watersheds with coho habitat on the North Coast. Information collected is being entered in the CDF data base and CDF is preparing a summary of observations. During 1997, an additional 50 Timber Harvesting Plans are being monitored on a larger geographic basis and CDF will provide additional observations based on this year's field sampling.

In addition to the continued refinement of the more detailed monitoring program, the Board has requested that CDF, the North Coast Regional Water Quality Control Board, and a representative of the California Licensed Foresters Association design a more formal monitoring program that can be applied by CDF or other foresters when a Work Completion Report is

prepared. This report is already required as part of determining if work stated in a Timber Harvesting Plan is completed and the Board believes that it is a workable step to add some observations about site conditions and rule effectiveness to the Completion Report. CDF and its associates have designed and tested a new Report form and are now making refinements. It is probable that it can be used in 1998 to provide additional information.

H. Continued Oversight in Hardwoods

Pursuant to Board encouragement, most counties in California with significant hardwood resources now have a local ordinance or other approach that focuses the importance of local hardwood resources. El Dorado County is the latest county to make substantial progress in developing an approach to hardwoods. In a recent report to the Board of Forestry, representatives from the county, using computer-based geographic system information, showed sophisticated analysis of the location of hardwood resources and how continued urban development in the county might affect them. The county is designing policy options to focus on development and related impacts on hardwoods.

An example of the success of ongoing efforts is Tehama County. The County's Hardwood Committee continues to demonstrate the success of an approach based on voluntary guidelines to be followed by landowners. The guidelines have been utilized by local landowners, and there is excellent sharing among local interests concerned over hardwoods.

The University of California has also elected to continue the Integrated Hardwood Range Management Program. This program, which was started by the University over a decade ago and has been funded by the Legislature in response to Board concerns over the need to improve research and public information about hardwoods, has been very successful. It continues to be a focus for the discussion of hardwood-related information needs and issues.

The Board continues to believe that the best approach to conservation and management of hardwoods lies with local government, landowners, and special interest groups. Most state level concerns will be dealt with adequately if local governments and landowners can identify and conserve or manage significant hardwood resources as part of the planning process. The Board does note, however, that population growth in California is, in part, concentrated along the rim of urban areas and the Central Valley where hardwood resources are located.

As has been the case with prime agricultural land protection, development pressure seems to exert an inexorable march across California and will

require creative and careful planning by local government if hardwoods and their related values are to be conserved.

I. Need for Relief from THP Process for Certain Projects

The cost of Timber Harvesting Plan preparation remains an impediment which can make it difficult to harvest small volumes of timber. A case in point is the removal of green trees as part of fuel reduction or for forest improvement. Existing authority in the Forest Practice Act is restricted to specified categories that do not include fuel reduction beyond specified distances. In some circumstances, development of a community or landowner fire defense system involves removal of vegetation to create a shaded fuel break. This can be a substantial distance from structures. In such cases, the cost of a Timber Harvesting Plan could deter landowners from participating in the fuel break development.

With limited authority to provide exemptions from the THP, the Board has been hard pressed to develop feasible regulatory alternatives. The Board continues to solicit suggestions for different approaches. For example, the Placer Resource Conservation District (RCD) indicated that the Board's new Program Timber EIR-THP might be adapted to facilitate harvest of green trees as part of a large scale community fuel break program. This could be done developing an Environmental Impact Report on the community fuel break program that would include documentation necessary under both the Forest Practice Act and the California Environmental Quality Act. The Board is working with the RCD to test the idea in the Meadow Vista area of Placer County, as well as the viability of applying such an analysis to larger areas such as the Foresthill Divide or to the entire county. The joint project with Placer RCD is promising but does show the substantial time that is necessary to find alternatives to the current system.

J. Importance of the Rangeland Water Quality Management Plan

In 1989, the Board's Range Management Advisory Committee (RMAC), in cooperation with the University of California Extension (CE) and the USDA Natural Resource Conservation Service (NRCS), undertook to develop a program to address non-point pollution on 20 million acres of privately owned rangeland. The plan involved two phases: first, develop the plan, then implement it. After several years of cooperative effort and public meetings, a California Rangeland Water Quality Management Plan (CRWQMP) was

approved by RMAC and forwarded by the Board of Forestry to the State Water Resources Control Board. The State Water Board approved the plan in July 1995.

The plan is important because it emphasizes cooperation and a voluntary, non-regulatory approach to protection of water quality that has gained acceptance by federal and state authorities. This model, if it produces good results, has the advantage of preserving incentives for landowners and still meeting the same goals as a regulatory program.

Since 1990, the program has been aggressive in calling attention to water quality issues in range management. From 1990-95, more than 100 CE Range and Livestock Farm Advisers and NRCS Conservationists participated in 27 regional meetings held throughout California. As a result of this training and emphasis placed on water quality by these specialists, almost every livestock and range farm advisor has a water quality program or project directed to local landowners and managers. Over 30 fact sheets have been produced and circulate to rangeland owners in California. A number of research projects have been initiated and between 1991-96 over a million dollars from various sources has been directed to research and education and another one million dollars has been acquired to fund local projects.

Currently, governmental and university officials are cooperating to help rangeland owners complete water quality assessments, water quality plans, and letters of intent as described in the CRWQMP. Emphasis is focused on implementation and feedback, as well as completing research and making it available to landowners. RMAC is following the results carefully and will report to the Board.

IMPACTS OF LITIGATION

In addition to being indirectly affected by litigation against EPA in the matter of TMDLs, the Board and CDF also were impacted by Friends of Old Trees v. CDF, et al. In this case, the court ruled that the treatment of alternatives in THPs needed to consider non-harvest alternatives. In response to the court decision, CDF delayed review of THPs until CDF could deal with expanded discussion of alternatives. CDF issued guidance to Registered Professional Foresters in the review of alternatives. Subsequently, THPs were resubmitted or modified and the CDF review proceeded. No rule changes by the Board were necessary, but the decision did create several weeks of uncertainty and an added burden on THP preparers.

The most significant ongoing litigation is Salmon Creek Corporation v. Board of Forestry. In this case, Salmon Creek Corporation alleges that the Board of Forestry violated the Bagley-Keene Open Meeting Act and the Fifth

Amendment rights of the Corporation in upholding the CDF denial of a roads-only plan on the Headwaters Forest. Currently, litigation of this plan is subject to delay pending efforts to acquire the Headwaters Forest.

II. BOARD ACTIONS

A. Archaeology

In 1996, the Board made several revisions to the archaeology rules.

Registered Professional Foresters (RPFs) expressed concern over the contents and requirements for the confidential archaeological addendum that must be prepared for Timber Harvest Plans. Changes proposed to the rules and the form were made to improve clarity and ease implementation of these rules.

B. Modified Timber Harvest Plan (MTHP)

The MTHP provides forestland owners with an entire ownership of 100 acres or less with a cost effective alternative for filing the regular timber harvesting plan. The MTHP rules were scheduled to sunset on December 31, 1997. Based on information from small landowners, RPFs, and CDF, the Board decided to repeal this sunset and make the MTHP rules permanent. A report from CDF states that the MTHP process operates successfully to meet its intent to facilitate financially feasible and environmentally sound management practices on small non-industrial ownerships across the state. Since July 1993, over 200 MTHPs have been submitted to CDF. CDF expects these numbers will continue to increase as familiarity with awareness of the MTHP rules increases among small landowners.

C. Slash Treatment for Less than 3-Acre Conversion Exemption

The North Coast Unified Air Quality Management District requested that the Board re-examine this rule because of smoke problems associated with slash burning. On the North Coast, 15 days is insufficient time for slash to dry. When it is burned it creates excessive smoke, raising issues of air quality standards. The Board examined this issue, and during rule review, RPFs proposed other amendments to make the rule easier to understand and allow

for alternative practices to treat slash. The final rule clarified responsibility for treatment and the size of material to be treated and when it must be

treated. Time frames were lengthened to allow for sufficient drying time prior to burning.

D. Fuel Break Instruction and Defensible Space

A key part of the Board's California Fire Plan is an aggressive fuel management program that includes strategic shaded fuelbreaks. However, shaded fuelbreak construction does not fit well within the existing regulatory framework which is primarily focused on traditional forest management concepts to tend and regenerate forests for wood products. It is difficult to construct a shaded fuelbreak with existing silviculture and stocking requirements. The Board's desire is to facilitate a process that strengthens community fire defense systems, improves forest health, and provides environmental protection. The Board adopted rules that: 1) allow an RPF to use a special silviculture prescription when constructing or maintaining a community fuelbreak, 2) allows lands that are within a community fuelbreak to meet the stocking standards for Site Class IV timberland, 3) exempt community fuelbreaks from an assessment of maximum sustained production requirements, and 4) allows defensible space prescriptions to be used around structures. These amendments will allow an RPF to design and implement effective community shaded fuelbreaks and defensible space prescriptions.

E. Maximum Sustained Production (MSP)

These amendments were made at the request of CDF and a private timberland owner. CDF points out that compliance regulations for achieving MSP continues to be a substantial workload for the Department. For that reason CDF recommended that the Board extend the period for demonstrating MSP by compliance with 913.11(c) through December 31, 1998. This extension will allow CDF and other agencies to complete review of several SYPs that have been submitted. A private firm testified that because of the scattered nature of its ownership and its demonstrated long-term management, preparing a 913.11(a) document or 913.11(b) Sustained Yield Plan for its entire ownership would be of limited value. The Board believes that it is appropriate to address the scattered parcel issue in light of its charge for cost effective regulation (Governor's Executive Orders W-127-97 and W-144-97); it also provides modest regulatory relief to over 16 timberland owners.

F. RPF/Supervised Designee

The Board directed the Professional Foresters Examining Committee to review the Forest Practice Rules to assure that regulations specifically requiring services of a RPF, rather than a non-registered supervised designee, where appropriate. In addition, questions of clarity had arisen from both enforcement personnel and the regulatory public regarding the use of Supervised Designees in performance of some requirements. The Professional Foresters Examining Committee (PFEC) held several public meetings to review all forest practice rules requiring services of an RPF and/or RPF's Supervised Designee and identified the rules that required amendments to improve clarity and provide flexibility in the application of the professional foresters law.

G. Watercourse and Lake Protection Zone (WLPZ) Amendments

The Board directed CDF to report on the implementation and effectiveness of the rules for WLPZs. After conducting this extensive review, CDF forwarded some suggested improvements to the Board. These suggestions were reviewed and discussed by the Board's Forest Practice Committee and a 12 item rule package was forwarded to the Board for consideration. The Board subsequently adopted the majority of the rule amendments that affect timber operations in WLPZs.